



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: **Department of Labor and Industries**

- ☐ Preproposal Statement of Inquiry was filed as WSR 05-09-061 ; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information:

Chapter 296-856 WAC, Formaldehyde; Chapter 296-62, General Occupational Health Standards; WAC 296-155-160, Gases, vapors, fumes, dusts, and mists; WAC 296-307-56045, Label containers of hazardous chemicals; WAC 296-307-62625, Permissible exposure limits of air contaminants; WAC 296-307-624 , Scope; WAC 296-839-40005, Label containers of hazardous chemicals; WAC 296-841-100, Scope

The Department of Labor and Industries is proposing to rewrite and clarify requirements relating to Formaldehyde. This rulemaking is part of our clear rule writing initiative to rewrite all of our general occupational safety and health rules for clarity. This proposal will move the Formaldehyde requirements from chapter 296-62 WAC to a new chapter, 296-856 WAC, Formaldehyde. See Attachment 1.

Hearing location(s):

Department of Labor and Industries Building
 7273 Linderson Way SW, Room S117
 Tumwater, WA 98501

Date: January 9, 2006, 1:30 p.m.

Date of intended adoption: April 4, 2006

(Note: This is **NOT** the effective date)

Submit written comments to:

Name: Carol Stevenson
 Address: Post Office Box 44635
 Olympia, Washington 98504-4635
 e-mail stei235@lni.wa.gov
 fax (360) 902-5529 by January 17, 2006

Assistance for persons with disabilities: Contact

Kimberly Johnson
 (360) 902-5008
 e-mail: rhok235@lni.wa.gov by December 15, 2005

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Formaldehyde rules, in chapter 296-62 WAC contain requirements relating to Formaldehyde. These requirements will be rewritten and moved into chapter 296-856 WAC, Formaldehyde.

Chapter 296-841 WAC, Respiratory Hazards, requires that employees be notified of exposure results over the PEL within 5 days to meet the requirements of RCW 49-17-220 for "prompt" notification. The chapter further specifies that notification for specific rules be "In writing, as specified in the rule specific to the substance." The requirement in the Formaldehyde Rule, proposed chapter 296-856 WAC, will require employers to notify employees of monitoring results within five (5) days of receiving the results. Currently the employers are required to provide notification within 15 days. This requirement has been changed to be consistent with the notification times for substance-specific hygiene rules.

There are no anticipated effects of this rulemaking.

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060

Statute being implemented: Chapter 49.17 RCW

Is rule necessary because of a:

- Federal Law? ☐ Yes ☒ No
 Federal Court Decision? ☐ Yes ☒ No
 State Court Decision? ☐ Yes ☒ No
 If yes, CITATION:

CODE REVISER USE ONLY

WSR# 05-23-138

DATE

November 22, 2005

NAME (type or print)

Gary K. Weeks

SIGNATURE

TITLE

Director

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

na

Name of proponent: (person or organization) Department of Labor & Industries

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Tracy Spencer	Tumwater	(360) 902-5530
Implementation.... Stephen Cant	Tumwater	(360) 902-5495
Enforcement..... Stephen Cant	Tumwater	(360) 902-5495

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

RCW 19.85.030 (1)(a) requires a small business economic impact statement only when a rule will "impose more than a minor cost on businesses in an industry." An analysis of the proposed rule reveals that in addition to not imposing new costs on businesses, these revisions will make WISHA rules easier for employers and employees to understand and use, and thus save time and resources. Therefore, no SBEIS is required.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: **Please explain:**

There are no costs to assess within these rule amendments. The amendments would require employers to provide notification of exposure evaluation results to employees within 5 days. Currently employers are required to provide this information within 15 days. This amendment will require employers to provide data that they already have, to employees quicker, and will not require additional costs. This amendment is consistent with notification times for substance-specific hygiene rules. The department determined the proposed changes do not require a cost benefit analysis because the costs associated with the proposed changes are exempted by the law since they are clarifying the rule for ease of use and understanding. [See RCW 19.85.025 referencing RCW 34.05.310(4)(d)]

CR 102 RULE-MAKING ORDER (RCW 34.05.320)

Department of Labor and Industries

WISHA Services Division

CR-102 Filing Date: November 22, 2005

Hearing Date: January 9, 2006

Page 1

Attachment 1

(Purpose Statement)

AMENDED SECTIONS:

Chapter 296-62 WAC, General Occupational Health Standards

WAC 296-62-07540, Formaldehyde

- The requirements from this section are moved to Chapter 296-856 WAC, Formaldehyde.
- A note is added to clarify that the requirements in this WAC section apply only to agriculture.

Chapter 296-155 WAC, Construction Work – Occupation Health and Environmental control

WAC 296-155-160, Gases, vapors, fumes, dusts, and mists.

- Update a reference.

Chapter 296-307, Part Y-2, Safety Standards for Agriculture - Material Safety Data Sheets and Label Preparation

WAC 296-307-56045, Label containers of hazardous chemicals

- Update a reference.

Chapter 296-307 WAC, Part Y-6, Respiratory Hazards

WAC 296-307-62625, Permissible exposure limits of air contaminants

- Update a reference.

Chapter 296-307 WAC, Part Y-6, Respiratory Hazards

WAC 296-307-624 , Scope

- Update a reference.

Chapter 296-839 WAC, Material Safety Data Sheet and Label Preparation

WAC 296-839-40005, Label containers of hazardous chemicals

- Update a reference.

Chapter 296-841, Respiratory Hazards

WAC 296-841-100, Scope

- Update a reference.

NEW CHAPTER:

- Chapter 296-856, Formaldehyde

NEW SECTIONS:

WAC 296-856-100, Scope

- Added language to this section relating to what this chapter covers.

WAC 296-856-200, Basic rules –section Contents

- This section gives a brief employer responsibility statement and includes a short table of contents of the sections located in this 3- digit WAC number.

WAC 296-856-20010, Preventive Practices

- This section requires that hazards are properly communicated and containers are properly labeled for any known or potential hazards.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-20020, Training

- This section requires that employees are provided training and information regarding exposures to formaldehyde.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-20030, Personal Protective Equipment (PPE)

- This section requires that employees are provided proper PPE and protection in areas where formaldehyde exposure could occur, at no cost to the employee.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-20040, Employee Protective Measures

- This section requires implementation of appropriate measures for employees performing activities with exposure to airborne formaldehyde.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-20050, Exposure Evaluations

- This section requires the employer to conduct an employee exposure evaluation to accurately determine airborne concentrations of formaldehyde in the workplace.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-20060, Notification

- This section requires the employer to provide written exposure monitoring results to the employees within 5 business days after an exposure evaluation. Notification requirements in the current rule is 15 days. This change is consistent with notification times in other substance specific hygiene rules.
- No requirements have been added.

WAC 296-856-20070, Exposure Records

- This section requires the employer to keep complete and accurate records for all exposure monitoring related to formaldehyde.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-300, Exposure and Medical Monitoring

- This section gives a brief employer responsibility statement and includes a short table of contents of the sections located in this 3- digit WAC number.

WAC 296-856-30010, Periodic Exposure Evaluations

- This section requires the employer to obtain employee exposure monitoring results as specified in Table 2, Periodic Exposure Evaluation Frequencies, in this section.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-30020, Medical and Emergency Evaluations

- This section requires that medical and emergency evaluations and examinations be provided to employees exposed to formaldehyde.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-30030, Medical Removal

- This section requires removal of employees who report signs or symptoms of formaldehyde exposure.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-857-30040, Multiple LHCP Review

- This section requires that employees are notified that they may seek 2nd and 3rd opinions from a Licensed Health care professional
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-30050, Medical Records

- This section requires the employer to establish and maintain complete and accurate medical records for each employee receiving a medical evaluation for formaldehyde.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-400, Exposure Control Areas

- This section gives a brief employer responsibility statement and includes a short table of contents of the sections located in this 3- digit WAC number.

WAC 296-856-40010, Exposure Controls

- This section requires the use of exposure controls to reduce employee exposures to formaldehyde concentration levels below the permissible exposure limit (PEL).
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-40020, Establishing Exposure Control Areas

- This section requires the employer to establish temporary or permanent exposure control areas where airborne concentrations of formaldehyde are above the short term exposure limit (STEL or 8-hour time weighted average).
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.

WAC 296-856-40030, Respirators

- This section requires that employees use respirator protection in exposure control areas. This section also requires that air-purifying chemical cartridges are replaced according to the manufacturers change-out schedules.
- The requirements in this section are currently located in WAC 296-62-07540. No requirements have been added.